

Exhibit 13

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

DIVERSI-PLAST PRODUCTS, INC., a)
Minnesota Corporation,)

Plaintiff,) Case No.

) 2:04CV01005 PGC

v.)

BATTENS PLUS, INC., a California)
Corporation,)

Defendant.)

CONFIDENTIAL

BATTENS PLUS, INC., a California)
Corporation,)

ATTORNEYS' EYES ONLY

Counterclaimant,)

v.)

DIVERSI-PLAST PRODUCTS, INC., a)
Minnesota Corporation,)

Counter-Defendant.)

DEPOSITION OF
RICHARD J. MORRIS
MINNEAPOLIS, MINNESOTA
FRIDAY, NOVEMBER 18, 2005

ATKINSON-BAKER, INC.

COURT REPORTERS
(818) 551-7300

www.depo.com

REPORTED BY: ROLLIE M. TROUP, COURT REPORTER

FILE NO.: 9F09A7C

EXHIBIT

13

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

| | | |
|----|------------------------------------|-----------------|
| 1 | DIVERSI-PLAST PRODUCTS, INC., a) | |
| 2 | Minnesota Corporation,) | |
| 3 | | |
| 4 | Plaintiff,) | Case No. |
| 5 | | 2:04CV01005 PGC |
| 6 | v.) | |
| 7 | | |
| 8 | BATTENS PLUS, INC., a California) | |
| 9 | Corporation,) | |
| 10 | | |
| 11 | Defendant.) | |
| 12 | _____) | |
| 13 | BATTENS PLUS, INC., a California) | |
| 14 | Corporation,) | |
| 15 | | |
| 16 | Counterclaimant,) | |
| 17 | | |
| 18 | v.) | |
| 19 | | |
| 20 | DIVERSI-PLAST PRODUCTS, INC., a) | |
| 21 | Minnesota Corporation,) | |
| 22 | | |
| 23 | Counter-Defendant.) | |
| 24 | _____) | |
| 25 | | |

Deposition of RICHARD J. MORRIS, taken
on behalf of the Defendant, at the law firm of
Patterson, Thuente, Skaar & Christensen, P.A., 80
South Eighth , Suite 4800, Minneapolis, Minnesota,
commencing at approximately 10:00 a.m., Friday,
November 18, 2005, before Rollie M. Troup, Court
Reporter and Notary Public.

APPEARANCES

ON BEHALF OF THE PLAINTIFF/COUNTER-DEFENDANT:

MATTHEW T. MACARI, ATTORNEY AT LAW
PATTERSON, THUENTE, SKAAR & CHRISTENSEN, P.A.
4800 IDS Center
80 South Eighth Street
Minneapolis, Minnesota 55402
(612) 349-5740

ON BEHALF OF THE DEFENDANT/COUNTERCLAIMANT:

MICHAEL S. WILCOX, ATTORNEY AT LAW
McDONOUGH HOLLAND & ALLEN P.C.
555 Capitol Mall
Suite 950
Sacramento, California 95814
(916) 444-3900

1 A I have no knowledge or recollection of any
2 meeting taking place with the Patent Office.

3 Q Referring back to Exhibit 15 that we just looked
4 at, the Request for Re-examination. On page 2 of
5 that document there is a list of prior art. Are
6 you familiar with any of that prior art?

7 MR. MACARI: I'll object as vague and
8 assumes legal definitions in the question, but
9 you can answer what you understand it to be.

10 THE WITNESS: I cannot answer that
11 question. I would have to review each of these
12 prior art patents, I assume these are patents, to
13 answer that question.

14 BY MR. WILCOX:

15 Q You can't tell just by the patent numbers if you
16 know or are familiar with any of these?

17 A I would need to review patents that I'm familiar
18 with and cross check it against these patent
19 numbers to answer that question. I've not
20 memorized patent numbers.

21 Q Are you aware that the re-examination request was
22 granted by the Patent and Trademark Office?

23 MR. MACARI: Objection vague.

24 THE WITNESS: I have no knowledge of any
25 legal proceedings with the Patent Office.

1 BY MR. WILCOX:

2 Q I'm going to hand you a document Bates DP 2159
3 through DP 2174, and we are going to mark this
4 Exhibit Number 43.

5 (Exhibit Number 43 marked.)

6 BY MR. WILCOX:

7 Q You don't have to look over this document in
8 detail, but if you would look over this document
9 to determine if you've seen this document before?

10 MR. MACARI: I apologize, what's the
11 number?

12 THE WITNESS: 43. (Reviewing document.)
13 I have glanced over the patent -- or, the
14 document.

15 BY MR. WILCOX:

16 Q Have you ever seen this document before?

17 A No.

18 Q Just to identify this document, looking at the
19 page that is Bates labeled DP 2160, and looking
20 at line 10, which is the top portion of the
21 document, actually starting with line 12, it says
22 that it is a patent application publication and
23 at line 10 -- is that correct?

24 A Line 10 gives a letter and number designation.

25 Q What is that letter and number designation?

1 A It is Capital D, Capital E, 44 21 941 A1.

2 Q And that is Exhibit 43?

3 A Uh-huh.

4 Q This document consists of a translation of a
5 German patent. Now, this document was produced
6 by Diversi-Plast, and you've never seen this
7 document before; is that correct?

8 A No.

9 Q Is it -- as far as you know does Diversi-Plast
10 have German patents translated as a normal
11 practice?

12 A I'm not aware of their practices how they do
13 business at this time.

14 Q If there were someone who were going to request a
15 translation of a German patent at Diversi-Plast,
16 who would be doing that?

17 MR. MACARI: Objection, vague. What
18 time frame are we talking about?

19 BY MR. WILCOX:

20 Q When you were working at Diversi-Plast?

21 A Can you state that now as a complete question so
22 I can understand it?

23 Q When you were working at Diversi-Plast who would
24 have requested or had a translation of a German
25 patent done?

1 A It could have been any number of people.

2 Q While you were at Diversi-Plast did anyone ever
3 have foreign patents translated that you were
4 aware of?

5 MR. MACARI: Objection. Are we talking
6 about this particular document, because there's a
7 date on this, or are we talking about just
8 generally translations?

9 MR. WILCOX: I'm talking generally
10 translations.

11 MR. MACARI: This is confusing. I just
12 want to make sure that this is clear.

13 THE WITNESS: I do not recall during my
14 period at Diversi-Plast translating a patent.

15 BY MR. WILCOX:

16 Q I am going to hand you a document that's Bates
17 labeled DP 2188 through 2193, and we will label
18 it Exhibit Number 44.

19 (Exhibit Number 44 marked.)

20 BY MR. WILCOX:

21 Q Can you review that document sufficiently to tell
22 if you've ever seen it before?

23 A (Reviewing document.) I briefly reviewed the
24 document.

25 Q Have you ever seen it before?

1 A No.

2 Q Other than in this deposition, have you ever
3 heard reference to that document previously?

4 A No.

5 Q When was the first time you heard of Battens
6 Plus?

7 A At the time I received service or documentation
8 for this deposition.

9 Q Did you hear about the complaint when it was
10 filed?

11 A No.

12 Q Have you been involved in any discussions where
13 you work as to why a suit was filed against
14 Battens Plus?

15 MR. MACARI: Objection. I will instruct
16 the witness to the extent that he can answer that
17 without disclosing attorney/client communications
18 or advice, you can go ahead, otherwise limit your
19 comments to non-attorney advice or
20 communications.

21 THE WITNESS: Could you state that
22 question again?

23 (Record read.)

24 THE WITNESS: No.

25 BY MR. WILCOX: